THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.11786 of 2006

Dated: 15.06.2006

Between:

Shaik Syed, S/o Shaik Bulla Saheb, R/o Palakol, West Godavari District.

.... PETITIONER

AND

The Eastern Power Distribution Company of AP Ltd., rep. by its Divisional Electrical Engineer, Operation Division, Hyderabad.

.....RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.11786 of 2006

Order:

Questioning the proceedings dated 29.05.2006 and 30.05.2006 of the respondent-Corporation, communicating the date of superannuation of the petitioner as 30.06.2006, the present writ petition is filed.

The petitioner, who is working as Assistant Lineman, was initially appointed as Helper in the respondent-Corporation on 07.01.1978. At the time of appointment, he produced his V Class Certificate-cum-Transfer Certificate showing his date of birth as 03.02.1949 and the respondent-Corporation recorded the said date of birth in all his Service Registers. Subsequently, he was promoted as Assistant Lineman on 13.10.1984. The petitioner states that in the seniority list prepared by the

respondent-Corporation, vide Memo dated 01.03.2005, his name was shown at Serial No.6 and his date of birth was shown as 03.02.1949. The respondent-Corporation also issued one-year notice to the petitioner on 23.03.2006 mentioning his date of superannuation as 25.02.2007. While the matter stood thus, the respondent-Corporation issued the impugned proceedings informing the petitioner that his date of birth is 01.07.1948 and his date of superannuation is 30.06.2006. The grievance of the petitioner is that the respondent-Corporation, having shown his date of birth as 03.02.1949 in all his Service Registers and having continued the same in the seniority list, cannot alter his date of birth from 03.02.1949 to 01.07.1948 on the basis of medical certificate dated 24.05.1971, which is seven years prior to his permanent appointment.

Learned counsel for the petitioner mainly submits that the respondent-Corporation, without giving any notice and without affording any opportunity of hearing to the petitioner, passed the impugned proceedings, which fact is not disputed by the learned Standing Counsel for the respondent-Corporation. But, the only defence taken by him is that based on the medical certificate, dated 24.05.1971, issued by the Doctor, the date of birth of the petitioner was computed as 01.07.1948, and accordingly, the impugned proceedings were issued informing the petitioner that he would be retiring from service on 30.06.2006.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation at length.

Admittedly, the impugned proceedings were passed without giving any notice and without affording any opportunity of hearing to the petitioner. The respondent-Corporation, having shown the date of birth of the petitioner as 03.02.1949 in all his Service Registers and having continued the same in the seniority list, cannot straight away alter his date of birth from 03.02.1949 to 01.07.1948 on the basis of alleged medical certificate dated 24.05.1971, which is seven years prior to the appointment of the petitioner. Even assuming that the date of birth submitted by the petitioner is wrong, a duty is cast on the respondent-Corporation, to issue notice and conduct enquiry as to the correct date of birth of the petitioner, before passing final orders communicating the date of his retirement based on the altered date of birth. Since the respondent-Corporation, without giving any reasonable opportunity to the petitioner and without conducting any enquiry, has passed the impugned

proceedings, the same are liable to be set aside, for it suffers from the vice of violation of principles of natural justice.

Accordingly, the writ petition is allowed and the impugned proceedings dated 29.05.2006 and 30.05.2006 are hereby set aside. However, this order does not preclude the respondent-Corporation to take appropriate action against the petitioner, after issuing notice and conducting enquiry and affording reasonable opportunity to him. No costs.

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N.V. RAMANA, J.

Date: 15.06.2006

Nsr/Ksr